

CHAPTER 1031**COUNTY BOOKS AND RECORDS — MISCELLANEOUS CHANGES***S.F. 2264*

AN ACT relating to the duties of county recorders and county auditors concerning instruments affecting real estate and certain other filings recorded by the county recorder.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 331.602, subsection 5, Code Supplement 2005, is amended by striking the subsection.

Sec. 2. Section 331.603, subsection 3, Code 2005, is amended to read as follows:

3. The recorder may reproduce in miniature on a durable medium any instrument to be recorded. When a recorded instrument involves a release, or assignment, or other subsequent reference to an original document, the separate instrument filed acknowledging the release, ~~or assignment, or other subsequent reference~~ shall be reproduced. In lieu of marginal entries, the recorder shall ~~make notations on both the index and the record of the original instrument~~ cross-reference the release, assignment, or other subsequent reference with the record of the original document. When an official record is produced in miniature, a security copy shall be reproduced at the same time and kept outside of the courthouse.

Sec. 3. Section 331.606B, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Each document or instrument, other than a plat or survey or a drawing related to a plat or survey, that is presented for recording ~~and that contains any of~~ shall contain the following information ~~shall have that information~~ on the first page below the three-inch margin:

Sec. 4. Section 331.607, subsection 1, Code 2005, is amended to read as follows:

1. ~~A record for military discharges~~ Military personnel records as provided in section 331.608.

Sec. 5. Section 331.608, subsections 3 and 9, Code Supplement 2005, are amended to read as follows:

3. The recorder shall record without charge the commissions and warrants of veteran officers and noncommissioned officers; orders citing a veteran for bravery and meritorious action; ~~and~~ citations and bestowals of medals from the state, federal, or foreign governments; and any other documents needed to perfect a claim.

9. As used in this section, "veteran" means a veteran as defined in section 35.1, who enlisted or was inducted from the county, resided at any time in the county, or is buried in the county. For purposes of records maintained for claims filed under chapter 426A, "veteran" also means a veteran as defined in section 426A.11, subsection 4.

Sec. 6. Section 458A.22, Code 2005, is amended to read as follows:

458A.22 DUTY TO HAVE FORFEITED LEASE RELEASED — AFFIDAVIT OF NONCOMPLIANCE — NOTICE TO LANDOWNER — REMEDIES.

1. When any oil, gas, or metallic mineral lease given on land situated in Iowa and recorded, becomes forfeited by failure of the lessee to comply with its provisions or the Iowa law, the lessee shall, within sixty days after date of forfeiture of the lease, have the lease surrendered in writing, duly acknowledged, and placed on record in the county where the leased land is situated, ~~or the lease may be released by a marginal release on margin of the record without cost to the owner of land described in the lease~~. If the lessee fails to execute and record a release of the recorded lease within the time provided for, the owner of the land may execute ~~and~~

file with the recorder of the counties in which the forfeited lease has been recorded an affidavit of noncompliance in substantially the following form:

AFFIDAVIT OF NONCOMPLIANCE

State of Iowa)
County of) ss.

....., being first duly sworn, upon oath deposes and says that the deponent is as referred to in an (oil and gas) (metallic mineral) mining lease dated the day of (month), (year), which lease is recorded in Volume, Page, or as Instrument # of the County Records of County,, and which lease covers the following described lands:

And further, deponent says that on the day of (month), (year), under the terms of said lease, there should have been paid to the deponent or deposited to the deponent's credit in the Bank of the sum of Dollars (\$.....), the payment of which was necessary in order to keep the above described lease in force and effect. Deponent hereby swears the above payment has never been made to the deponent or the deponent's representatives, in money or otherwise, nor has same been deposited to the deponent's credit in the above bank.

And further, deponent says that there has been no drilling or development of any nature or kind whatsoever done on the land covered by the lease referred to herein, as called for under the terms of said lease.

Subscribed and sworn to before me, a Notary Public for the State of Iowa, this day of (month), (year)

.....
Notary Public

My commission expires

AFFIDAVIT OF THE BANKER

State of)
County of) ss.

I,, (Cashier) (President) of the Bank of, being first duly sworn, upon my oath declare that there has not been deposited to the credit of in the Bank of, by or any other party, any sum of money whatsoever, in payment of rental under the terms of the (oil and gas) (metallic mineral) mining lease referred to in this affidavit.

Witness my hand this day of (month), (year)

.....
(Cashier) (President) of Bank

Subscribed and sworn to before me, a Notary Public for the State of Iowa on the day of (month), (year)

.....
Notary Public

My commission expires

2. The owner of the land shall retain the original affidavit and shall mail a copy of the affidavit by restricted certified mail, as defined in section 618.15, to the lessee. If the lessee ~~shall~~, within thirty days after receipt of the filing of such affidavit, give gives notice in writing, by restricted certified mail, to the county recorder of the county where said owner of the land is located that ~~said the~~ lease has not been forfeited and that ~~said the~~ lessee still claims that ~~said the~~ lease is in full force and effect, then the ~~said affidavit shall not be recorded but the county recorder shall notify the owner of the land of the action of the lessee, and the owner of the land shall be entitled to the remedies provided by this chapter for the cancellation of such disputed lease.~~

3. If the lessee shall does not notify the county recorder owner of the land as above provided

in subsection 2, then the county recorder owner shall record said file the original affidavit for recording with the county recorder, and thereafter the record of the said lease shall not be notice to the public of the existence of said the lease or of any interest therein or rights thereunder, and said the record shall not be received in evidence in any court of the state on behalf of the lessee against the lessor, and said the lease shall stand forfeited.

Sec. 7. Section 558.41, subsection 4, Code 2005, is amended to read as follows:

4. TERMINATION OF LIFE ESTATE. Upon the termination of a life estate interest through the death of the holder of the life estate, any surviving holder or successor in interest shall prepare a change of title or affidavit for tax purposes and delivery of the deed or change of title shall deliver such instrument to the county recorder of the county in which each parcel of real estate is located.

Sec. 8. Section 558.49, subsection 3, Code 2005, is amended to read as follows:

3. The date and time when the instrument was filed with the recorder.

Sec. 9. Section 558.57, Code 2005, is amended to read as follows:

558.57 ENTRY ON AUDITOR'S TRANSFER BOOKS.

The After the recorder shall not record has accepted for recording and indexed any deed, real estate installment contract, or other instrument unconditionally conveying real estate or altering a real estate contract by assigning the buyer's or seller's interest, changing the name of the buyer or seller, changing the legal description of the property, forfeiting or canceling the contract, or making other significant changes, until the auditor shall make the proper entries have been made upon the transfer books in the auditor's office, and endorsement made upon the deed, real estate installment contract, or other instrument properly dated and officially signed, in substantially the following form: .

Entered upon transfer books and for taxation this day of (month), (year). My fee \$..... collected by recorder.

.....
Auditor.

Sec. 10. Section 558.58, subsection 1, Code 2005, is amended to read as follows:

1. At the time of filing a deed, real estate installment contract, or other instrument mentioned in section 558.57, the recorder shall collect from the person filing the deed, real estate installment contract, or instrument, and note payment of, the recording fee provided by law and the auditor's transfer fee, as provided by law, except as provided in subsection 2. The recorder shall deliver the deed, real estate installment contract, or instrument to the county auditor, after endorsing upon the instrument the following:

Filed for record, indexed, and delivered to the county auditor this ... day of (month), ... (year), at o'clock ...m.
Recorder's and auditor's fee \$.... paid.

.....
Recorder.

After the recorder has accepted the instrument for recording, the instrument shall be indexed and then delivered to the auditor to be placed on the auditor's transfer books.

Sec. 11. Section 558.60, Code 2005, is amended to read as follows:

558.60 TRANSFER AND INDEX BOOKS.

The county auditor shall keep in the county auditor's office books for the transfer of real estate, which shall consist of a transfer book, index book, and plat book. As used in this context, "book" means the method of data storage and retrieval utilized by the county auditor.

The auditor shall index the real estate transfers by block and lot or by township, range, section, section quarter, and subdivision, as occasion may require. The transfer books shall show all of the following:

1. Each grantor.
2. Each grantee.
3. The date of the instrument.
4. The nature of the instrument.
5. The document reference number where the record of the instrument may be found.
6. The description of the real estate conveyed.

Sec. 12. Section 558.63, Code 2005, is amended to read as follows:

558.63 BOOK OF PLATS — HOW KEPT.

The auditor shall keep the book of plats ~~so as to show~~ showing the number of lot and block, or township and range, divided into sections and subdivisions as occasion may require, and shall designate thereon each piece of real estate, and ~~mark in pencil~~ the name of the owner ~~thereon, in a legible manner; which.~~ The plats shall be lettered or numbered so that they may be conveniently referred to by the memoranda of in the transfer book, ~~and shall be drawn on the scale of not less than four inches to the mile.~~

Sec. 13. Section 561.4, Code 2005, is amended to read as follows:

561.4 SELECTING — PLATTING.

The owner, husband or wife, or a single person, may select the homestead and cause it to be platted, but a failure to do so shall not render the same liable when it otherwise would not be, and a selection by the owner shall control. When selected, it shall be designated by a legal description, or if impossible it shall be marked off by permanent, visible monuments, and the description shall give the direction and distance of the starting point from some corner of the dwelling, which description, with the plat, shall be filed and recorded by the recorder of the proper county ~~in the homestead book, which shall be, as nearly as may be, in the form of the record books for deeds, with an index kept in the same manner provided in sections 558.49 and 558.52.~~

Sec. 14. Section 614.21, unnumbered paragraph 1, Code 2005, is amended to read as follows:

No action shall be maintained to foreclose or enforce any real estate mortgage, bond for deed, trust deed, or contract for the sale or conveyance of real estate, after twenty years from the date thereof, as shown by the record of such instrument, unless the record of such instrument shows that less than ten years have elapsed since the date of maturity of the indebtedness or part thereof, secured thereby, or since the right of action has accrued thereon, or unless the record shows an extension of the maturity of the instrument or of the debt or a part thereof, and that ten years from the expiration of the time of such extension have not yet expired. The date of maturity, when different than as appears by the record of the instrument, and the date of maturity of any extension of said indebtedness or part thereof, may be shown at any time prior to the expiration of the above periods of limitation by the holder of the debt or the owner or assignee of the instrument filing an extension agreement, duly acknowledged as the original instrument was required to be acknowledged, in the office of the recorder where the instrument is recorded, ~~or by noting on the margin of the record of such instrument in the recorder's office an extension of the maturity of the instrument or of the debt secured, or any part thereof; each notation to be witnessed by the recorder and entered upon the index of mortgages in the name of the mortgagor and mortgagee.~~

Sec. 15. Section 614.35, Code 2005, is amended to read as follows:

614.35 RECORDING INTEREST.

To be effective and to be entitled to record, the notice above referred to shall contain an accurate and full description of all land affected by such notice which description shall be set forth in particular terms and not by general inclusions; but if ~~said~~ the claim is founded upon a recorded instrument, then the description in such notice may be the same as that contained in such recorded instrument. Such notice shall be filed for record in the office of the county re-

corder of the county or counties where the land described ~~therein~~ in the notice is situated. The recorder of each county shall accept all such notices presented to the recorder which describe land located in the county in which the recorder serves and shall enter and record full copies ~~thereof in the same way that deeds and other instruments are recorded~~ of the notices in the manner provided in sections 558.49 and 558.52, and each recorder shall be entitled to charge the same fees for the recording ~~thereof~~ of the notices as are charged for recording deeds. In indexing such notices in the recorder's office each recorder shall enter such notices under the grantee indexes of deeds in the names of the claimants appearing in such notices. ~~Such notices shall also be indexed under the description of the real estate involved in a book set apart for that purpose to be known as the "claimant's book."~~

Sec. 16. Sections 558.61, 558.62, and 558.64, Code 2005, are repealed.

Approved April 7, 2006

CHAPTER 1032

REGULATION OF WINE PRODUCTION, LABELING, AND DISTRIBUTION

S.F. 2305

AN ACT concerning wine, including the allowable alcohol content of wine and inspection of certain wine permittees.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 123.3, subsections 5 and 37, Code Supplement 2005, are amended to read as follows:

5. "Alcoholic liquor" or "intoxicating liquor" means the varieties of liquor defined in subsections 3 and 33 which contain more than five percent of alcohol by weight, beverages made as described in subsection 7 which beverages contain more than five percent of alcohol by weight but which are not wine as defined in subsection 37, and every other liquid or solid, patented or not, containing spirits and every beverage obtained by the process described in subsection 37 containing more than seventeen percent alcohol by weight or twenty-one and twenty-five hundredths percent of alcohol by volume, and susceptible of being consumed by a human being, for beverage purposes. Alcohol manufactured in this state for use as fuel pursuant to an experimental distilled spirits plant permit or its equivalent issued by the federal bureau of alcohol, tobacco and firearms is not an "alcoholic liquor".

37. "Wine" means any beverage containing more than five percent¹ but not more than seventeen percent of alcohol by weight or twenty-one and twenty-five hundredths percent of alcohol by volume obtained by the fermentation of the natural sugar contents of fruits or other agricultural products but excluding any product containing alcohol derived from malt or by the distillation process from grain, cereal, molasses, or cactus.

Sec. 2. Section 123.173, subsection 2, Code 2005, is amended to read as follows:

2. A class "A" wine permit allows the holder to manufacture and sell, or sell at wholesale, in this state, wine as defined in section 123.3, subsection 37. The holder of a class "A" wine permit may manufacture in this state wine having an alcoholic content greater than seventeen

¹ See chapter 1185, §118 herein